

HONORABLE BARBARA J. ROTHSTEIN

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

vPersonalize Inc.,

Plaintiff,

v.

Magnetize Consultants Ltd. (*dba* Kit Builder),

Defendant.

Case No.: 2:18-CV-01836-BJR

ORDER

The Court is in receipt of Plaintiff's improperly-styled¹ "Request for Clarification," (Dkt. No. 96), a letter seeking clarification from the Court on the ruling that by failing to comply with the rules of discovery, Plaintiff had waived its objections to Defendant's requests. (Dkt. No. 95). In that Order, the Court ruled "Plaintiff shall turn over *all* responsive documents that it has not already produced . . . irrespective of any purported objections" (emphasis in original). Plaintiff is requesting clarification as to whether "all" means "all," including purportedly attorney-client privileged material.

Defendant's Motion to Compel explicitly sought such material, based upon a claimed waiver of that privilege effected by Plaintiff's repeated (and continued) failure to meet the

¹ The "Request" is clearly a motion seeking a ruling from the Court, and as such should have been filed in accordance with Local Rules and the Court's Standing Order. In the future, such improper filings shall be stricken.

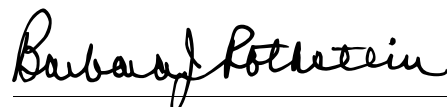
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1 discovery response deadlines or to provide any valid explanation therefor, or to produce a privilege
2 log.

3 Plaintiff has had numerous opportunities to cure these deficiencies, and its failure to do so,
4 or to comply with deadlines, has necessitated the Court's extended involvement in what should
5 have been a simply-resolved matter between the parties. This is not the first instance that the
6 parties' failure to coordinate communications has resulted in unnecessary intervention by the
7 Court. *See*, e.g., Dkt. Nos. 43, 50. Furthermore, the Court has already admonished the parties "that
8 unexcused disregard of Court deadlines and other rules cannot be countenanced in a case as
9 potentially complex as this." *See* Order Re: Motion to Compel, Dkt. No. 95. Therefore, the Court
10 hereby reiterates and clarifies that as a consequence of Plaintiff's failure to comply with the rules
11 of discovery, Plaintiff has indeed waived its right to assert any objections, including an attorney-
12 client privilege objection, specifically as to its responses to Defendant's Interrogatory No. 1 and
13 Request for Production No. 1.

14 Dated this 1st day of November, 2019.

16 

17 Barbara Jacobs Rothstein
18 U.S. District Court Judge